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EXAMINER

ROCHE, TRENTON J

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 05/24/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

8

Office Action Summary

Application No.

09/756,819

Applicant(s)

ANDERSON, THOMAS G.

Examiner

Trent J Roche

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-26,28-34,36-52 and 54-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-26,28-34,36-52 and 54-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to Amendment A filed 19 February 2004.
2. Per applicant's request, amended claims 2-20, 24, 26, 28-34, 36-38, 40-48, 50-52, 54 and 56 have been entered. Claims 1, 27, 35 and 53 have been canceled. Claims 2-26, 28-34, 36-52 and 54-56 are pending.
3. Claims 2-26, 28-34, 36-52 and 54-56 have been examined.

Claim Objections

4. Claim 55 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. As independent claim 54 states all of the material embodied in dependent claim 55, claim 55 fails to further limit claim 54.
5. Claim 24 is objected to because of the following informalities: According to Amendment A, claim 24 is intended to be an independent claim, however, the marked-up version of the claim does not indicate that the phrase "The method of Claim 22" has been removed. Appropriate correction is required. For purposes of examination, the claim will be interpreted as independent and the phrase "The method of Claim 22" will be considered removed.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 52 and 54-56 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,778,368 to Hogan et al.

Regarding claim 52:

Hogan et al teach:

- a method of using a computer network to manage access to a pool of software modules, wherein the pool comprises entries having module access conditions and module access information (Note Fig. 10 and the corresponding section of the disclosure. Further, “tools that allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57.)
- accepting information identifying a download software module to be downloaded from said pool (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65)
- accessing from the pool access conditions associated with the DSM (download software module), and accepting information indicating that the DSM are accepted (“the user has access to all Attributes that are within the users security limits.” in col. 13 lines 8-9. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67. The download instructions indicate that the user computer has accepted the DSM for download.)
- accessing from the pool the access information corresponding to the DSM (download software module), and communicating the access information (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download

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instructions to the Repository Server...” in col. 13 lines 62-65. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67)

- wherein the download step allows download of a plurality of modules, and further comprising determining a fee associated with the download of the plurality of modules (“Some examples of...assigned Attributes include...list price of Repository Units” in col. 10 lines 27-30)

substantially as claimed.

Regarding claim 54:

Hogan et al teach:

- a method of using a computer to facilitate distributed software development (Note Fig. 10 and the corresponding section of the disclosure.)
- accepting submitted software modules at a module manager (“allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57)
- accepting access information specifying how to access the submitted module (“Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 52-53)
- storing the access conditions and access information as related entries in a database (“allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57. Further, “Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 52-53)
- allowing access by users to modules from the module manager (Note Fig. 1 and the corresponding section of the disclosure.)

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- determining a desired software module from the database to be accessed (Note Fig. 2a and the corresponding section of the disclosure.)
- determining if the user's desired access complied with the access conditions (Note Fig. 3 and the corresponding section of the disclosure. Further, "so as to limit access only users or user groups that appear on the Access List." in col. 9 lines 53-54.
- Wherein accepting access conditions for a submitted module comprises accepting an indication of whether the module is available for commercialization; and wherein allowing access to modules comprises determining if the user desires access to a set of modules for commercialization, and, if so, then determining an apportionment of fees ("this allows Customers to purchase RTES software products." in col. 20 lines 4-5. If customers can purchase a RTES product, then the unit must inherently have been indicated as available for commercialization. Further, the product would have a fee attribute associated with it.)

substantially as claimed.

Regarding claim 55:

The rejection of claim 54 is incorporated, and further, as the claim does not further limit the parent claim, it is rejected for the reasons set forth in connection with claim 54.

Regarding claim 56:

Hogan et al teach:

- a method of using a computer to facilitate distributed software development (Note Fig. 10 and the corresponding section of the disclosure.)

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- accepting submitted software modules at a module manager (“allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57)
- accepting access information specifying how to access the submitted module (“Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 52-53)
- storing the access conditions and access information as related entries in a database (“allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57. Further, “Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 52-53)
- allowing access by users to modules from the module manager (Note Fig. 1 and the corresponding section of the disclosure.)
- determining a desired software module from the database to be accessed (Note Fig. 2a and the corresponding section of the disclosure.)
- determining if the user’s desired access complied with the access conditions (Note Fig. 3 and the corresponding section of the disclosure. Further, “so as to limit access only users or user groups that appear on the Access List.” in col. 9 lines 53-54.
- Wherein modules in the pool are characterized by membership in one of three classes, wherein the first class denotes modules not available for commercialization, the second class denotes modules available for commercialization, and the third class denotes modules available for commercialization and having a higher quality than modules in the second class (Note Figure 4 and the corresponding section of the disclosure. A quality attribute may be set for each module in the system.)

substantially as claimed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-23, 26 and 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,778,368 to Hogan et al in view of U.S. Publication 2001/0032189 A1 to Powell.

Regarding claim 8:

Hogan et al teach:

- a method of using a computer network to facilitate distributed software development, using a pool of software modules maintained with a module manager (Note Fig. 10 and the corresponding section of the disclosure.)
- establishing a connection via said network between a user computer and a module manager (Note Fig. 1 and the corresponding section of the disclosure.)
- accepting at the module manager an indication from the user computer specifying a submission or a download ("for checking-in or checking-out Repository Units from the Repository database." in col. 5 lines 1-2. The computer must make an indication as to whether it is checking-in or checking-out a Unit.)
- accepting at the module manager access conditions related to a submit software module ("Attributes may also comprise an Access List so as to limit access only users or user groups that appear on the Access List." in col. 9 lines 52-54)

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- accepting at the module manager access information (Note Fig. 3 and the corresponding section of the disclosure.)
- storing at the module manager the SAC (user computer access conditions) and SAI (user computer access information) as part of said pool (“allows the user to select the files to be combined into a Repository Unit...Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 50-53)
- accepting at the module manager information from the user computer identifying a download software module to be downloaded from said pool (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65)
- accessing from the pool the access conditions associated with the DSM (download software module), and accepting at the module manager information from the user computer indicating that the DSM are accepted (“the user has access to all Attributes that are within the users security limits.” in col. 13 lines 8-9. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67. The download instructions indicate that the user computer has accepted the DSM for download.)
- accessing form the pool the access information corresponding to the DSM (download software module), and communicating the access information from the module manager to the user computer (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65. Further, “once the download instructions are processed by the Repository

Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67)

substantially as claimed. Hogan et al do not specifically disclose wherein the SAC (computer access conditions) include at least one of subsequent distribution limited to object code, subsequent distribution limited to downloaders having specified characteristics, subsequent distribution only allowed on payment of a fee, subsequent distribution to downloaders for research use is allowed on payment of a fee lower than distribution to downloaders for commercial use, distribution from the module pool is allowed, but further distribution by downloaders from the module pool is prohibited, and distribution from the module pool is allowed, but further distribution by downloaders is allowed only after payment of a fee. Powell discloses in an analogous Internet based submission system that ability to set computer access conditions as claimed (“central controller timestamps user’s response and authenticates user’s identity and user’s qualifications to determine if user’s qualifications meet any conditions imposed by the originator as to which users may obtain access to the FDI” on page 3, paragraph 0022). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the computer access conditions of Powell with the software repository of Hogan et al, as this would enable an originator to not allow a particular user to access the submission, as disclosed on page 2, paragraph 0014 of Powell.

Regarding claim 2:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose a computer network comprising the Internet (Note Fig. 1)

Regarding claim 3:

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The rejection of claim 8 is incorporated, and further, Hogan et al disclose maintaining a user database of users and associated access privileges as claimed (Note Fig. 3 and the corresponding section of the disclosure.)

Regarding claim 4:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose communicating from the module manager to the user computer a set of allowable access conditions as claimed (“wherein the check-in means comprises a template in which attributes of the...software are entered.” in col. 22 lines 36-38)

Regarding claim 5:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose accessing pool access conditions from the module manager as claimed (“the proper protocols for both technology partners...must be met when checking-in and checking out RTES, as well as accessing certain Repositories.” in col. 19 lines 63-65)

Regarding claim 6:

The rejection of claim 5 is incorporated, and further, Hogan et al disclose prohibition against distributing modifications as claimed (“the proper protocols for both technology partners and product development groups...must be met when checking-in and checking out RTES...” in col. 19 lines 61-64.)

Regarding claim 7:

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The rejection of claim 8 is incorporated, and further, Hogan et al disclose an indication of whether a software module is available for commercialization as claimed (“this allows Customers to purchase RTES software products.” in col. 20 lines 4-5. If customers can purchase a RTES product, then the unit must inherently have been indicated as available for purchase.)

Regarding claim 9:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose accepting at the module manager the SSM from the user computer as claimed (“The product development groups are further able to deposit...units to the RTES Repository such as new RTES Components...” in col. 19 lines 42-44)

Regarding claim 10:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose accepting at the module manager a computer network identifier as claimed (Note Fig. 3 and the corresponding section of the disclosure.)

Regarding claim 11:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose using electronic commerce contracting as claimed (“This allows customers to purchase RTES software products...” in col. 20 lines 4-5. Further, “This allows for the development and re-use of new products, and new features within existing products.” in col. 19 lines 47-49. The intellectual property is transferred to the product development groups, who can develop new products with the RTES software products.)

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Regarding claim 12:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose a database of software module access information as claimed (“The product development groups are further able to deposit...units to the RTES Repository such as new RTES Components...” in col. 19 lines 42-44.

For the Repository to keep track of the software units, including the deposited units, it must inherently add an entry corresponding to the new deposited unit.)

Regarding claim 13:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose the identify download step as claimed (“The Repository Server searches...and routes a list of Repository Units to the user’s desktop...The user then selects certain Repository Units from the Component List...and thereafter identified for downloading via download instructions...” in col. 13 lines 55-65)

Regarding claim 14:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose the identify download step as claimed (Note Fig. 2a and the corresponding section of the disclosure)

Regarding claim 15:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose the download conditions step as claimed (Note Fig. 4 and the corresponding section of the disclosure.)

Regarding claim 16:

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The rejection of claim 8 is incorporated, and further, Hogan et al disclose the download conditions step as claimed ("Once the Repository Unit is checked-out, the repository tool create a purchase record..." in col. 15 lines 15-16)

Regarding claim 17:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose the transmit download step as claimed ("Once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated." in col. 13 lines 65-67)

Regarding claim 18:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose the transmit download step as claimed (Note Fig. 3 and the corresponding section of the disclosure.)

Regarding claim 19:

The rejection of claim 8 is incorporated, and further, note the rejection regarding claim 11.

Regarding claim 20:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose fee information as claimed ("how many times a Particular Repository Unit was purchased, and the purchase price." in col. 17 lines 65-67)

Regarding claim 21:

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The rejection of claim 20 is incorporated, and further, Hogan et al disclose communicating the fee information as claimed ("This allows Customers to purchase RTES software products." in col. 20 lines 4-5. Further, the user would inherently see the fee information before purchasing the product, as the fee is part of the attribute information associated with the product.)

Regarding claim 22:

The rejection of claim 20 is incorporated, and further, Hogan et al disclose storing in a fee-database information relating to the download, and determining a fee from the fee-database as claimed ("Purchase Count and Amount to record how many times a Particular Repository Unit was purchased, and the purchase price." in col. 17 lines 65-67. The fee would inherently be determined so that the unit may be purchased.)

Regarding claim 23:

The rejection of claim 22 is incorporated, and further, Hogan et al disclose communicating the fee to the user computer as claimed ("This allows Customers to purchase RTES software products." in col. 20 lines 4-5. Further, the user would inherently see the fee information before purchasing the product, as the fee is part of the attribute information associated with the product.)

Regarding claim 26:

The rejection of claim 8 is incorporated, and further, Hogan et al disclose the download step allows download of a plurality of modules, further comprising determining a fee associated with the download of the plurality of modules as claimed ("this allows Customers to purchase RTES software products." in col. 20 lines 4-5. If customers can purchase a RTES product, then the unit

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must inherently have been indicated as available for commercialization. Further, the product would have a fee attribute associated with it.)

Regarding claim 31:

Hogan et al teach:

- a method of using a computer to accept software modules into a module pool (Note Fig. 10 and the corresponding section of the disclosure. Further, “tools that allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57.)
- accepting access conditions related to a submit software module for submission to said pool (“Attributes may also comprise an Access List so as to limit access only users or user groups that appear on the Access List.” in col. 9 lines 52-54. Further, “Allows the user to assign Attributes to the Repository Units.” in col. 16 lines 52-53)
- accepting access information related to the submit software module (Note Fig. 3 and the corresponding section of the disclosure.)
- storing at the module manager the SAC (user computer access conditions) and SAI (user computer access information) as part of said pool (“allows the user to select the files to be combined into a Repository Unit...Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 50-53)

substantially as claimed. Hogan et al do not specifically disclose wherein the SAC (computer access conditions) include at least one of subsequent distribution limited to object code, subsequent distribution limited to downloaders having specified characteristics, subsequent distribution only allowed on payment of a fee, subsequent distribution to downloaders for research use is allowed on payment of a fee lower than distribution to downloaders for commercial use, distribution from the

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module pool is allowed, but further distribution by downloaders from the module pool is prohibited, and distribution from the module pool is allowed, but further distribution by downloaders is allowed only after payment of a fee. Powell discloses in an analogous Internet based submission system that ability to set computer access conditions as claimed ("central controller timestamps user's response and authenticates user's identity and user's qualifications to determine if user's qualifications meet any conditions imposed by the originator as to which users may obtain access to the FDI" on page 3, paragraph 0022). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the computer access conditions of Powell with the software repository of Hogan et al, as this would enable an originator to not allow a particular user to access the submission, as disclosed on page 2, paragraph 0014 of Powell.

Regarding claim 28:

The rejection of claim 31 is incorporated, and further, Hogan et al disclose maintaining a user database of users and associated access privileges as claimed (Note Fig. 3 and the corresponding section of the disclosure. The user will not be able to submit to the pool if they are not a valid user.)

Regarding claim 29:

The rejection of claim 31 is incorporated, and further, note the rejection regarding claim 4.

Regarding claim 30:

The rejection of claim 31 is incorporated, and further, note the rejection regarding claim 7.

Regarding claim 32:

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The rejection of claim 31 is incorporated, and further, note the rejection regarding claim 9.

Regarding claim 33:

The rejection of claim 31 is incorporated, and further, Hogan et al disclose accepting an identifier indicating how the submit software module can be accessed as claimed (“Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 52-53)

Regarding claim 34:

The rejection of claim 31 is incorporated, and further, note the rejection regarding claim 12.

10. Claims 24, 25 and 36-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,778,368 to Hogan et al in view of U.S. Patent 6,061,691 to Fox.

Regarding claim 24:

Hogan et al teach:

- a method of using a computer network to facilitate distributed software development, using a pool of software modules maintained with a module manager (Note Fig. 10 and the corresponding section of the disclosure.)
- establishing a connection via said network between a user computer and a module manager (Note Fig. 1 and the corresponding section of the disclosure.)
- accepting at the module manager an indication from the user computer specifying a submission or a download (“for checking-in or checking-out Repository Units from the

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Repository database.” in col. 5 lines 1-2. The computer must make an indication as to whether it is checking-in or checking-out a Unit.)

- accepting at the module manager access conditions related to a submit software module (“Attributes may also comprise an Access List so as to limit access only users or user groups that appear on the Access List.” in col. 9 lines 52-54)
- accepting at the module manager access information (Note Fig. 3 and the corresponding section of the disclosure.)
- storing at the module manager the SAC (user computer access conditions) and SAI (user computer access information) as part of said pool (“allows the user to select the files to be combined into a Repository Unit...Allows the user to assign Attributes to the Repository Units...” in col. 16 lines 50-53)
- accepting at the module manager information from the user computer identifying a download software module to be downloaded from said pool (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65)
- accessing from the pool the access conditions associated with the DSM (download software module), and accepting at the module manager information from the user computer indicating that the DSM are accepted (“the user has access to all Attributes that are within the users security limits.” in col. 13 lines 8-9. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67. The download instructions indicate that the user computer has accepted the DSM for download.)

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- accessing from the pool the access information corresponding to the DSM (download software module), and communicating the access information from the module manager to the user computer (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67)
- when a module is downloaded, storing in a fee-database information related to the download if indicated by the DAC, and wherein the download step further comprises determining a fee from the fee-database and the DAC (“Purchase Count and Amount to record how many times a Particular Repository Unit was purchased, and the purchase price.” in col. 17 lines 65-67. The fee would inherently be determined so that the unit may be purchased.)
- communicating the fee to the user computer, and accepting payment complying with the fee at the module manager before communicating the DAI (“This allows Customers to purchase RTES software products.” in col. 20 lines 4-5. Further, the user would inherently see the fee information before purchasing the product, as the fee is part of the attribute information associated with the product.)

substantially as claimed. Hogan et al do not disclose wherein the fee is determined from an indication of the demand for the DSM, wherein the indication of demand increases with increasing number of downloads of the module, and decreases with increasing number of downloads of other modules from the pool. Fox discloses in an analogous inventory management system the ability to determine a fee based on demand as claimed (“the difference $A=T-S$ is the total amount of commercial capacity available for a particular program on a particular date. The price of a program

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normally increases as A decreases” in col. 6 lines 32-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fee determination system of Fox with the software repository of Hogan et al, as this would enable a developer to determine prices for purposes of future sales, as stated in col. 6 lines 28-30.

Regarding claim 25:

The rejection of claim 24 is incorporated, and further, Hogan et al do not disclose wherein the demand decreases with increasing time elapsed since said download, wherein the effect of an individual download of another module decreases with increasing time elapsed. Fox discloses in an analogous inventory management system the ability to determine a fee based on elapsed time as claimed (Note at least Figure 2 and the corresponding section of the disclosure). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fee determination system of Fox with the software repository of Hogan et al, as this would enable a developer to determine prices for purposes of future sales, as stated in col. 6 lines 28-30.

Regarding claim 50:

Hogan et al teach:

- a method of using a computer network to manage access to a pool of software modules, wherein the pool comprises entries having module access conditions and module access information (Note Fig. 10 and the corresponding section of the disclosure. Further, “tools that allow software engineers to contribute objects to the Repository database...” in col. 8 lines 56-57.)

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- accepting information identifying a download software module to be downloaded from said pool (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65)
- accessing from the pool access conditions associated with the DSM (download software module), and accepting information indicating that the DSM are accepted (“the user has access to all Attributes that are within the users security limits.” in col. 13 lines 8-9. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67. The download instructions indicate that the user computer has accepted the DSM for download.)
- accessing from the pool the access information corresponding to the DSM (download software module), and communicating the access information (“The Repository Units are then scrutinized by the user and thereafter identified for downloading via download instructions to the Repository Server...” in col. 13 lines 62-65. Further, “once the download instructions are processed by the Repository Server, a FTP or HTTP download of the Repository Unit is generated.” in col. 13 lines 65-67)
- wherein the download step further comprises communicating fee information associated with the DSM, and accepting payment complying with the fee information before communicating the DAI (“This allows Customers to purchase RTES software products.” in col. 20 lines 4-5. Further, the user would inherently see the fee information before purchasing the product, as the fee is part of the attribute information associated with the product.)

substantially as claimed. Hogan et al do not disclose wherein the fee is determined from an

indication of the demand for the DSM, wherein the indication of demand increases with increasing

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number of downloads of the module, and decreases with increasing number of downloads of other modules from the pool. Fox discloses in an analogous inventory management system the ability to determine a fee based on demand as claimed (“the difference $A=T-S$ is the total amount of commercial capacity available for a particular program on a particular date. The price of a program normally increases as A decreases” in col. 6 lines 32-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fee determination system of Fox with the software repository of Hogan et al, as this would enable a developer to determine prices for purposes of future sales, as stated in col. 6 lines 28-30.

Regarding claim 36:

The rejection of claim 50 is incorporated, and further, Hogan et al disclose maintaining a user database of users and associated access privileges as claimed (Note Fig. 3 and the corresponding section of the disclosure. The user will not be able to receive transmissions from the pool if they are not a valid user.)

Regarding claims 37 and 38:

The rejection of claim 50 is incorporated, and further, note the rejection regarding claim 4 and 5, respectively.

Regarding claim 39:

The rejection of claim 50 is incorporated, and further, note the rejection regarding claim 6.

Regarding claims 40-45:

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The rejection of claim 50 is incorporated, and further, note the rejection regarding claims 13-18, respectively.

Regarding claim 46:

The rejection of claim 50 is incorporated, and further, note the rejection regarding claim 19.

Regarding claims 47 and 48:

The rejection of claim 50 is incorporated, and further, note the rejection regarding claims 21 and 22, respectively.

Regarding claim 49:

The rejection of claim 47 is incorporated, and further, note the rejection regarding claim 23.

Regarding claim 51:

The rejection of claim 50 is incorporated, and further, Hogan et al do not disclose wherein the demand decreases with increasing time elapsed since said download, wherein the effect of an individual download of another module decreases with increasing time elapsed. Fox discloses in an analogous inventory management system the ability to determine a fee based on elapsed time as claimed (Note at least Figure 2 and the corresponding section of the disclosure). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the fee determination system of Fox with the software repository of Hogan et al, as this would enable a developer to determine prices for purposes of future sales, as stated in col. 6 lines 28-30.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

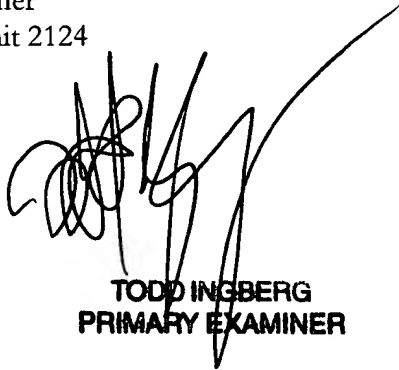
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trent J Roche whose telephone number is (703)305-4627. The examiner can normally be reached on Monday - Friday, 9:00 am - 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703)305-9662. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Trent J Roche
Examiner
Art Unit 2124

TJR



**TODD INGBERG
PRIMARY EXAMINER**